



Enhancing the Settlement of Mild Assault Cases Through Penal Mediation: Law Enforcement Practices by the West Lombok Resort Police

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Abstract:

Law enforcement addressing small offenses, particularly minor assaults, is increasingly shifting from traditional judicial systems to restorative justice approaches utilizing prison mediation techniques. This study aims to elucidate the functioning of penal mediation at the West Lombok Resort Police level, the legal frameworks that underpin it, and the challenges encountered throughout its implementation. We employed interviews, field observations, and document analyses to obtain the data. The poll results indicate that criminal mediation relies on the mutual agreement of the victim and the perpetrator, with investigators serving as facilitators and overseers of the procedure. This is supported by the Chief of Police Regulation and the principle that investigators possess the autonomy to make independent decisions, as articulated in the Criminal Procedure Code and the Police Law. Punitive mediation incorporates community members, such as village leaders and Bhabinkamtibmas, to leverage local and societal values in problem resolution.

Key words: *Restorative Justice, Minor Crimes, Penal Mediation.*

Abstrak:

Penegakan hukum terhadap tindak pidana ringan, khususnya penganiayaan ringan, kini tidak hanya mengandalkan jalur peradilan formal, tetapi mulai diarahkan pada penyelesaian berbasis keadilan restoratif melalui mekanisme mediasi penal. Penelitian ini bertujuan untuk menjelaskan praktik mediasi penal di tingkat Kepolisian Resort Lombok Barat, landasan hukum yang digunakan, serta kendala yang dihadapi dalam pelaksanaannya. Metode pengumpulan data dengan wawancara, observasi lapangan, serta studi dokumen. Hasil penelitian menunjukkan bahwa mediasi penal diterapkan berdasarkan pada prinsip sukarela dan kesepakatan antara pelaku dan korban, dengan penyidik berperan sebagai fasilitator dan pengawas proses, serta didukung oleh Peraturan Kapolri dan asas diskresi penyidik sebagaimana diatur dalam KUHAP dan UU Kepolisian. Selain itu, praktik mediasi penal juga melibatkan unsur masyarakat seperti kepala desa dan Bhabinkamtibmas sebagai bentuk pendekatan berbasis nilai lokal dan sosial.

Kata kunci: Mediasi Penal, Tindak Pidana Ringan, Keadilan Restoratif.

A. Introduction

Penal mediation is generally used more often in minor criminal cases. However, the use of jail mediation has grown, especially after the Chief of Police Circular Letter No. B/3022/XII/2009/SDEOPS, issued on December 14, 2009, promoted the use of Alternative Dispute Resolution (ADR) techniques to settle criminal cases. After the issuance of this Circular Letter, the clause was rescinded and deemed null and void. SE/8/VII/2018, sent on July 27, 2018, addresses the use of restorative justice in handling

criminal cases. The latest regulation, Chief of Police Regulation No. 8 of 2021, which governs the management of criminal offenses through restorative justice, was approved on August 19, 2021.

The recent rule underscores the concepts of restorative justice and establishes the legal framework and standards for police investigators as the principal method for addressing criminal cases, even minor infractions. Penal mediation can only occur if both the accused and the complainant consent to it.¹ In the absence of an agreement, the case will proceed via the relevant legal processes fairly and professionally.²

A criminal mediation strategy is particularly effective for minor offenses, notably minor assault. This method is believed to expedite case resolution by eliminating the lengthy and arduous formal procedures of the criminal justice system.³ Incidents of minor violence that could have been resolved amicably frequently undergo inquiry and ultimately proceed to court. An approach that prioritizes substantial justice via penal mediation can facilitate a swifter, more equitable, and successful resolution for both parties.⁴

B. Research Methods

This study employs an empirical legal methodology, commonly referred to as socio-legal research. This perspective overlooks the fact that law is a social construct that evolves and adapts within society.⁵ This suggests that individuals can comprehend the law not only through its text but also through its application, public perception, and societal reactions in everyday life.

The study examines the evolution of legal behavior, specifically the application of restorative justice principles by the police in their interactions with individuals. This research includes a literature evaluation and an analysis of the regulations governing jail mediation within the Indonesian law enforcement system.

¹ Sony Rizky Anugrah and Ahmad Sudiro, "Penyelesaian Tindak Pidana Penghinaan/Pencemaran Nama Baik Melalui Media Sosial Berbasis Restorative Justice Di Kepolisian Daerah Kalimantan Tengah," *Morality: Jurnal Ilmu Hukum* 9, no. 2 (2023): 294–308; Ramadhani Wijaya, Sanawiah Sanawiah, and Ariyadi Ariyadi, "Penerapan Mediasi Penal Di Polres Barito Utara Dalam Penanganan Tindak Pidana Kekerasan Dalam Rumah Tangga," *Teaching and Learning Journal of Mandalika (Teacher)* e-ISSN 2721-9666 4, no. 2 (2024): 259–78.

² Glora Meliana Sitohang, Jinner Sidauruk, and Sovia Simamora, "Legal Analysis of the Legal Force of Mediation Results as a Dispute Resolution Method in Business Contracts (Based on Law Number 30 of 1999 Concerning Alternative Dispute Resolution)," *Journal of Legal and Cultural Analytics*, 2025, <https://doi.org/10.55927/jlca.v4i1.13878>.

³ Syarifuddin Syarifuddin, Indra Gunawan Purba, and Panca Sarjana Putra, "Implementation of Restorative Justice in Settlement of Criminal Actions in the Criminal System in Indonesia," *JURNAL AKTA*, 2024, <https://doi.org/10.30659/akta.v1i1.34516>.

⁴ Achmad Fahmi Adiatma, Abid Uais Al-qarni, and Y A Triana Ohoiwutun, "Penyelesaian Tindak Pidana Kecelakaan Lalu Lintas Melalui Mediasi Penal," *Judge: Jurnal Hukum* 6, no. 02 (2025): 41–47; Bela Ananda Anugrahni and Toetik Rahayuningsih, "Penyelesaian Kecelakaan Lalu Lintas Melalui Pendekatan Keadilan Restoratifdi Wilayah Hukum Kepolisian Resort Sanggau Kalimantan Barat," *Causa: Jurnal Hukum Dan Kewarganegaraan* 12, no. 6 (2025).

⁵ Lasmin Alfies Sihombing, "Restorative Justice, Kejahatan, Hukuman, Dan Peradilan Pidana: Sebuah Analisis Kesejarahan, Peluang Dan Tantangan," *UNES Law Review* 6, no. 3 (2024): 8902–11.

C. Results and Discussion

Law Enforcement for Minor Crimes Through Penal Mediation at the West Lombok Police Resort

Adhering to statutory regulations or judicial rulings constitute only one aspect of law enforcement. Law enforcement is significantly influenced by various interconnected issues, both directly and indirectly. These entities are neutral; yet their impacts can be both beneficial and detrimental, contingent upon their origin and utilization. Soerjono Soekanto asserts that several critical factors influence the law enforcement process.⁶

a. Legal Factors

A legal regulation is considered optimal if it satisfies three fundamental criteria: it is legally legitimate (juridical), it aligns with actual human behavior (sociological), and it conforms to principles of justice (philosophical). The greater the alignment of a regulation with these three factors, the higher the probability of its enforcement. Conversely, if a rule does not adhere to these guidelines, it will undoubtedly encounter difficulties during implementation.

b. Law Enforcement Factors

The police, prosecutors, judiciary, advocates, and correctional facilities are all integral components of the criminal justice system, essential for effective law enforcement. They are primarily responsible for determining the effectiveness of law enforcement procedures in the field.

The role of police officers is significantly crucial, particularly when exercising their judgment. This is attributable to several reasons, including:

- 1) Government-imposed restrictions. No legal system can entirely regulate all forms of human behavior.
- 2) The law's sluggish adaptation to societal changes. Occasionally, the law fails to keep pace with societal changes, thereby complicating its application and enforcement.
- 3) Insufficient resources. Law enforcement frequently contends with inadequate funding and substandard infrastructure, hindering their ability to enforce laws effectively.
- 4) There is a necessity for a distinct methodology for every case. Specific issues cannot be addressed generically; they require careful consideration and a more humanistic approach.

The professionalism of police personnel is paramount. In his work "Continuing Learning in the Professions," Cyril O. Houle enumerates nine characteristics that define a genuine professional:

- 1) Possess a robust scientific foundation;
- 2) Demonstrate your proficiency in your role;
- 3) Navigate the selection and certification process by legal standards;
- 4) Capable of collaborating and competing with other professionals constructively;

⁶ Yulian Azhari, Articles Info, and Pena Justisia, "OPTIMIZATION OF LEGAL SUPPORT FOR STATE DEFENSE AND SECURITY INTERESTS IN INDONESIA," *Pena Justisia: Media Komunikasi Dan Kajian Hukum*, 2024, <https://doi.org/10.31941/pj.v23i3.5556>.

- 5) Assist individuals in comprehending their professional identities and responsibilities;
- 6) Adhere to the standards of professional ethics;
- 7) Accept sanctions for violating ethical standards;
- 8) Demonstrate your commitment and enthusiasm for your task;
- 9) Engage actively in professional organizations pertinent to your field.

Police personnel can effectively perform their duties and deliver justice grounded in ethical and professional standards if they fulfill specific criteria.

c. Facilities and Facilities

Law enforcement cannot operate effectively without adequate facilities and infrastructure. These facilities encompass numerous essential components, including a sufficient number of educated and talented personnel, a well-structured organizational framework, appropriate instruments, and suitable financial resources. In the absence of these supplementary facilities, police personnel will struggle to execute their responsibilities efficiently, thereby hindering the objective of upholding justice. Proper facilities are essential for the effective functioning of a judicial system.

d. Community Factors

The community plays a crucial role in law enforcement, with awareness of the law being paramount. When the community possesses extensive legal knowledge, law enforcement operations will be more efficient and beneficial to the community. If individuals lack understanding of the law, law enforcement may encounter significant challenges and perhaps fail to adhere to legal standards. Legal awareness comprises several essential components, including:

- 1) Understanding of legal principles. To what extent are the general populace familiar with the laws and regulations that govern them.
- 2) Comprehending the intent of the statute. The law transcends mere restrictions; it serves as a mechanism for maintaining order and equity.
- 3) Adhering to the law. Exhibiting a willingness to comply with the law out of respect for its underlying ideals, rather than from fear of repercussions.

As societal awareness increases, the law transcends its role as merely a state instrument and becomes an integral part of society's collective consciousness.

e. Cultural Factors

The culture of a society significantly influences the efficacy and challenges faced by law enforcement. Compliance with a law is more readily achieved when it aligns with the community's ideas, norms, and practices. If a legal norm is perceived as incongruent or incompatible with the community's culture, it won't be easy to implement and may be rejected by society. For legislation to be effective and enduring, it must thrive and integrate into the cultural fabric of society.⁷

⁷ Meli Syafitri and Aal Lukmanul Hakim, "Peran Hukum Dalam Masyarakat Indonesia Antara Tradisi Dan Modernisasi," *Karimah Tauhid* 4, no. 4 (2025).

Lawrence M. Friedman asserts that police enforcement and the legal system that undergirds it are inseparable.⁸ The legal system comprises three fundamental components: legal structure, legal substance, and legal culture.⁹ Each component fulfills a distinct yet crucial function in establishing an effective law enforcement system. The legal structure encompasses the individuals and entities responsible for executing legal obligations, whereas the legal substance pertains to the applicable rules and laws governing a scenario. Legal culture reflects societal perceptions, behaviours, and the application of the law.¹⁰ All three collaborate to determine the practical application of the statute.

a. Legal Substance

Every legal system requires regulations, traditions, and the actual behavior of individuals. This substance encompasses not only the text of laws and regulations but also the decisions, policies, and activities undertaken by legal practitioners. Legal substance comprises a collection of regulations and practices adhered to by institutions, including the operational conduct of police officers inside the system.¹¹ The emphasis on legal substance beyond the text of legal statutes to encompass living law, which refers to the law that is genuinely adhered to and enforced within society.

Laws are a crucial element of the legal framework in Indonesia, serving as authoritative state documents applicable to all individuals, including law enforcement and government officials. However, in practice, there are no explicit legal guidelines governing the application of penal mediation in minor criminal cases. Police officers typically utilise National Police Chief Regulation No. 8 of 2021 as a reference. This rule pertains to the application of restorative justice in addressing criminal offenses. This principle underpins the utilization of jail mediation as an alternative method for resolving disputes. It illustrates that legal conceptions continually evolve to satisfy societal demands.

b. Legal Structure

The structure of the legal system is crucial as it serves as the fundamental basis that unifies all other components. Legal systems evolve; nonetheless, their structural components tend to alter gradually, maintaining consistent patterns across history. This framework underpins the law, providing the legal system with guidance, constraints, and a coherent structure for its operation.¹²

Numerous nations have maintained Supreme Courts for centuries, which continue to operate now, but with evolving functions over time. The legal framework encompasses the courts, their respective authority or jurisdiction, the appellate process among

⁸ H Flora, Mac Thi Hoai Thuong, and Ratna Deliana Erawati, "The Orientation and Implications of New Criminal Code: An Analysis of Lawrence Friedman's Legal System," *Jurnal IUS Kajian Hukum Dan Keadilan*, 2023, <https://doi.org/10.29303/ius.v1i1.1169>.

⁹ Irianto Kabes et al., "Budaya Hukum Korupsi Hakim Agung Dalam Menangani Sengketa Koperasi Simpan Pinjam Di Mahkamah Agung," *Journal of Law, Administration, and Social Science* 4, no. 3 (2024).

¹⁰ Andi Tenri Leleang and M SH, "Tantangan & Hambatan Dalam Reformasi Hukum," *Pengantar Hukum Indonesia: Reformasi Hukum* 44 (2024).

¹¹ Didit Wijayanto Wijaya, "Pertentangan Asas Res Judicata Pro Veritate Habetur Dengan Asas Presumption of Innocence Dalam Peradilan Pidana," *IBLAM LAW REVIEW* 5, no. 1 (2025): 15–24.

¹² Tanti Kirana Utami et al., "Pengaruh Teori Perundang-Undangan Terhadap Dinamika Norma Hukum Dalam Sistem Hukum Indonesia," *Jurnal Hukum Ius Publicum* 5, no. 2 (2024): 264–93.

courts, and the organization and operation of the legislative and executive departments.¹³ This encompasses regulations that entities such as law enforcement and regulatory bodies must adhere to.

The police are the fundamental component of jail mediation within the context of law enforcement. The police oversee the resolution of minor offenses through conciliation. This method adheres to a series of procedures grounded in applicable legal regulations and guidelines. Structure encompasses not just the institution's form but also its uniform and methodical execution of legal responsibilities.

c. Legal Culture

Legal culture encompasses a society's perspectives, attitudes, convictions, values, and developmental stages related to law and the legal system.¹⁴ Legal culture reflects the broader societal culture that directly influences the legal domain.¹⁵ These societal mindsets and attitudes have a profound impact on the functioning of legal systems. In daily life, we frequently participate in legal culture unconsciously, such as when we opt to adhere to regulations or when we jointly scrutinize the equity of a legal ruling.

Legal culture can be compared to the "essence" of the legal system. In the absence of a dynamic legal culture throughout society, the legal system remains a simple, hollow structure. In contrast, a robust legal culture facilitates the successful operation and integration of law within social realities. This indicates that legal culture is the societal force that influences the implementation, adherence, evasion, or even exploitation of the law.¹⁶

In practice, the legal framework and institutional architecture may be exemplary or contemporary, although their implementation often falls short of expectations. This occurs when formal legal processes have not yet endorsed social and cultural beliefs. Law enforcement institutions frequently interact with broader societal processes, encompassing political, economic, and cultural dimensions.¹⁷

The public typically resolves problems amicably via discussion and consensus. This practice strongly aligns with the ideals of restorative justice, particularly in minor criminal cases, offering a resolution based on an agreement between the offender and the victim. The objective is to establish an equitable and advantageous resolution that embodies the tenets of restorative justice for both parties involved. Nonetheless, numerous individuals remain unaware that prison mediation constitutes a valid alternative for resolving criminal

¹³ Mohamed El-Ghawati, "The Role Of The Constitutional Judiciary In Conforming Legislation And Strengthening Federal Rule," *Journal of Legal and Political Studies*, 2025, <https://doi.org/10.17656/jlps.10294>.

¹⁴ Lia Trizza Firgita Adhilia et al., "Pembangunan Hukum Pada Aspek Budaya Hukum Masyarakat," *Innovative: Journal Of Social Science Research* 5, no. 1 (2025): 3630–42.

¹⁵ Chitra Imelda et al., *Pengaruh Kebudayaan Dalam Pembentukan Sistem Hukum Di Indonesia* (CV. Gita Lentera, 2024).

¹⁶ D Rahayu et al., "Law Enforcement in the Context of Legal Culture in Society," *LAW REFORM*, 2020, <https://doi.org/10.14710/lr.v16i2.33780>.

¹⁷ Zaen Pasya Ashsyafa et al., "Dynamics of Interaction Between Law and Socio-Culture In The Context of A Multicultural Society," *International Journal of Social Service and Research*, 2024, <https://doi.org/10.46799/ijssr.v4i04.773>.

matters. This results from the absence of legal controls in the form of statutes that specifically govern the penal mediation process. Despite the existence of National Police Chief Regulation Number 8 of 2021 regarding the Management of Criminal Offences through Restorative Justice, not all members of the public are familiar with or understand this policy.

Dissatisfaction frequently arises among various stakeholders in criminal justice practice, particularly when the legal proceedings fail to fulfill the perception of justice adequately. Community participation as stakeholders in the criminal case settlement process is essential, as the repercussions of crime frequently affect the wider public and social domains. Consequently, empathy, moral accountability, and a commitment to dispute resolution have become integral to a dynamic legal culture.

The evolution of correctional mediation is intrinsically linked to the expanding concept of restorative justice, which aims to reform the criminal justice system. Penal mediation serves as a tangible mechanism for implementing restorative justice, emphasising case resolution that prioritises not only punishment but also the restoration of social relationships among victims, offenders, and the broader community.¹⁸

Penal mediation is to achieve a fair and satisfactory agreement for all parties, thereby speeding the case resolution process in a straightforward, efficient, and economical manner. This not only reinforces the sense of justice for victims, witnesses, and suspects but also facilitates the reintegration of perpetrators into society without adverse stigma. Bripka Putu Hardi Syswanto stated in an interview that prison mediation is frequently utilized since the parties genuinely seek reconciliation. This technique aims to facilitate collaboration between criminals and victims to select the most effective resolution, thereby fostering a more compassionate judicial system.

2. Settlement of Minor Assault Case at West Lombok Police Resort

Misdemeanor assault is a shortened variant of assault as defined in Article 351 of the Criminal Code regarding ordinary assault. Article 352 of the Criminal Code delineates specific laws concerning misdemeanor assault, categorizing such offenses as having less severe or restricted repercussions. Article 352, paragraph (1), delineates legal stipulations for kinds of assault that do not result in significant injury and are classified as offenses with lesser repercussions than standard assault. Some of the elements contained in this article are:

- a. Criminal Act of Assault: An act involving physical violence against another person.
- b. Intentional: An act committed with the intention or awareness to harm another person, not by accident.
- c. Minor Assault: The violence committed does not result in serious injury or death but only causes minor injuries that are not dangerous to long-term safety or health.

¹⁸ Kristiyadi Kristiyadi and Vincentius Patria Setyawan, "Keadilan Restoratif Dan Mediasi Penal Dalam Tindak Pidana Ringan," *Jurnal Kepastian Hukum Dan Keadilan*, 2022, <https://doi.org/10.32502/khk.v4i1.4622>.

- d. Consequences: There are no serious consequences, such as serious injury or death, that distinguish minor assault from serious assault or murder.

This article aims to provide appropriate penalties for minor acts of violence that do not threaten the victim's safety.

This article delineates that misdemeanor assault is an act perpetrated by one individual against another, resulting in pain or discomfort, while not impeding the victim's capacity to perform their occupational or other livelihood activities. This act, however classified as minor, remains subject to criminal punishment. Additionally, consider the scenario where the offender assaults an individual who is employed by him, such as an employee, subordinate, or someone in a position of reliance. In such a scenario, the penalty may be augmented to one-third of the mandated term.

Assault in criminal law pertains to the stipulations outlined in Article 351 of the Criminal Code, which serves as its foundational article. This article governs material offenses, specifically criminal acts defined by their actual repercussions on another individual. In cases of mild assault, a key factor is that the victim's activities or employment remain unaffected by the incident. Under Article 352 of the Criminal Code, a perpetrator of minor assault is subject to a maximum imprisonment of three months or a maximum fine of IDR 4,500.

All offenses, including minor assaults, must fundamentally be addressed through the criminal justice system.¹⁹ This phrase denotes a system that organizes crime prevention strategies in a structured and coordinated fashion through a systematic methodology. In Indonesia, this system is governed by the 1981 Criminal Procedure Code, which establishes criminal justice as an integrated system founded on the principle of "functional differentiation," signifying a distinct allocation of roles and authorities among law enforcement agencies by the phases of the legal process. The framework of this criminal justice system comprises several primary subsystems:²⁰

- a. The police are responsible for carrying out investigations and inquiries;
- b. The Prosecutor's Office has the authority to prosecute individuals who commit criminal actions;
- c. The court serves as the institution that adjudicates and resolves cases according to the law;
- d. Correctional institutions and centers facilitate the social reintegration of offenders.

Simultaneously, the correctional institution conducts rehabilitation for incarcerated individuals. Conversely, individuals granted probation or conditional sentences are rehabilitated by the Correctional Center (Bapas) to facilitate their responsible reintegration into society.

Indonesia's criminal justice system employs a modified inquisitorial framework, wherein investigations are conducted in private; however, suspects are entitled to legal

¹⁹ Maidin Gultom and Sahata Manalu, "Pendekatan Restorative Justice Sebagai Alternatif Penyelesaian Tindak Pidana Penganiayaan Ringan Di Kejaksaan Negeri Medan," *Fiat Iustitia: Jurnal Hukum*, 2023, 44–61.

²⁰ Dylan Cooper et al., "Policy Gaps and Opportunities: A Systematic Review of Autism Spectrum Disorder and Criminal Justice Intersections," *Autism* 26 (2022): 1014–31, <https://doi.org/10.1177/13623613211070341>.

representation, albeit in a non-active capacity.²¹ Nonetheless, the deployment of this system is confined to the preliminary phases within the police force. Moreover, the judicial process must transition to a transparent and equitable accusatory system.

This system is also shaped by the principles of the Due Process Model, which emphasises the importance of safeguarding the rights of suspects, upholding the Presumption of Innocence, and requiring a legal audit, specifically a procedural legal examination conducted by an authorised entity.²² A person can only be deemed guilty if their culpability is lawfully established through a fair and legitimate judicial process.

Bripka Putu Hardi Syswanto, an investigator at the West Lombok Police Resort, states that cases of minor assault are classified as minor offenses that can be addressed through expedited procedures. Chapter XVI of the Criminal Procedure Code delineates the modalities of examination within the judicial process, categorizing them into three types: ordinary examination, brief examination, and expedited examination. The selection of this examination style is typically dictated by the nature of the crime involved, particularly the complexity of substantiating the case. Expedited examinations are conducted when the case is considered straightforward and does not necessitate a complicated evidentiary procedure, as in instances of minor assault.

In expedited processes, investigators possess complete jurisdiction to send and process the case immediately to court without the active participation of the public prosecutor.²³ This contrasts with the systems of standard and expedited procedures, wherein the public prosecutor is instrumental in the case transfer and prosecution process. In this expedited method, investigators effectively assume the prosecutor's position in the prosecutorial function, which is ordinarily the prosecutor's job.

According to Article 205, paragraph (2) of the Criminal Procedure Code, investigators operate "under the authority" of the public prosecutor to directly present case files to the court. Investigators possess the authority to present evidence, encompassing defendants, witnesses, experts, and interpreters, directly during trials. This article clarifies that the phrase "under the authority" is normative rather than administrative, indicating its legal validity.²⁴ This authority does not necessitate a written power of attorney from the public prosecutor, as it is conferred automatically by law. Although the public prosecutor is

²¹ Benny Sumardiana, Pujiyono Pujiyono, and Irma Cahyaningtyas, "Reforming Justice: Unpacking the Pre-Judication and Post-Judicate Dynamics of the Sarpin Case in Law and Practice in Indonesia," *Lex Scientia Law Review*, 2024, <https://doi.org/10.15294/lsr.v8i2.10744>.

²² Radina Stoykova, "Digital Evidence: Unaddressed Threats to Fairness and the Presumption of Innocence," *Comput. Law Secur. Rev.* 42 (2021): 105575, <https://doi.org/10.1016/j.clsr.2021.105575>; Athina Sachoulidou, "Going beyond the 'Common Suspects': To Be Presumed Innocent in the Era of Algorithms, Big Data and Artificial Intelligence," *Artificial Intelligence and Law*, 2023, 1–54, <https://doi.org/10.1007/s10506-023-09347-w>.

²³ Noer Diana Errika, Muhammad Andri, and Tri Susilowati, "Peran Jaksa Dalam Perkara Tindak Pidana Korupsi Berdasarkan Undang-Undang Pemberantasan Tindak Pidana Korupsi," *Justicia Journal* 14, no. 1 (2025): 158–86.

²⁴ Kadek Agus Sudiarawan et al., "Discourses on Citizen Lawsuit as Administrative Dispute Object: Government Administration Law vs. Administrative Court Law," *Journal of Indonesian Legal Studies*, 2022, <https://doi.org/10.15294/jils.v7i2.60166>.

present at trial, their role is passive. It does not influence the examination's progression, as they no longer possess the authority to meddle in the procedure.

Moreover, Article 205, paragraph (2) of the Criminal Procedure Code stipulates that investigators are required to present the defendant and associated parties within three days. This regulation does not specify whether "three days" constitutes the minimum or maximum time restriction. This perspective is grounded in Article 146, paragraph (2), and the elucidation of Article 152, paragraph (2) of the Criminal Procedure Code, which mandates that summonses for defendants and witnesses be delivered a minimum of three days before the trial. Consequently, if investigators do not present the pertinent parties within three days, this is deemed invalid and constitutes a procedural infraction. On the other hand, if it exceeds three days, it remains acceptable provided it does not contravene other stipulations. Per Article 207, paragraph (1), letter b of the Criminal Procedure Code, small criminal matters received by the court shall be adjudicated promptly on the same day. This rule embodies efficiency and simplicity in managing minor situations, ensuring the legal process operates seamlessly without undermining the principle of justice.

Alongside accelerated investigative processes, minor criminal cases may also be addressed through an alternative method, specifically penal mediation. This technique entails that the settlement is contingent upon a mutual agreement between the perpetrator and the victim, following a prior police investigation. Should the investigator determine that the matter is appropriate for mediation, the process may commence. Briпка Putu Hardi Syswanto elucidated that penal mediation constitutes a method of resolving criminal cases outside the formal legal framework, applicable not only at the police level but also inside the prosecutor's office and the courts. In practice, prison mediation creates a discussion space that unites the culprit and victim, mediated by an impartial third party.²⁵ This approach may occur either through direct face-to-face interactions or indirectly via an intermediary to create a conducive communication environment. The victim is permitted to articulate their needs, emotions, and the effects they have endured. The perpetrator is encouraged to accept responsibility for their actions and seek a mutually equitable resolution with the victim. Consequently, criminal mediation not only addresses legal disputes but also reinstates the social equilibrium disrupted by the crime.²⁶

Penal mediation serves as an alternate resolution for specific criminal cases, intended to alleviate the strain on the judicial system (*Judex Facti*). Despite its typical application, especially in minor assault cases at the police level, Indonesia lacks a comprehensive and cohesive legal framework specifically governing the procedure of penal mediation. Nonetheless, prison mediation has emerged as a legal innovation driven by practical necessities within law enforcement, aimed at achieving a more contextual and compassionate justice for all parties concerned. This methodology is grounded in the principles of justice as articulated in the state philosophy of Pancasila, specifically the fifth principle, "Social justice for all Indonesian people." While Pancasila does not

²⁵ Cailey Strauss, Jorden Cummings, and Kendall Deleurme, "'We've Got History Now': Victim and Justice-Involved Youth Experiences During Mediation Sessions," *Criminal Justice and Behavior* 51 (2024): 1397–1412, <https://doi.org/10.1177/00938548241237183>.

²⁶ Rajendra Dharmalingga Wiritanaya, M Syahrul Borman, and Nur Handayani, "Analisis Mediasi Penal Dalam Perkara Penipuan Dan Penggelapan Sebagai Upaya Mewujudkan Keadilan Restoratif," *PACIVIC: Jurnal Pendidikan Pancasila Dan Kewarganegaraan* 5, no. 1 (2025): 119–35.

explicitly reference penal mediation, its fundamental values endorse a resolution strategy focused on welfare and social justice.

Alongside Pancasila, the state constitution offers a normative foundation that reinforces the validity of this approach. The fourth paragraph of the Preamble to the 1945 Constitution mandates the realization of justice for all individuals. Republic of Indonesia National Police, as a governmental institution, is obligated to maintain security and order, as well as to protect, serve, and uphold the law. The introduction of penal mediation by police investigators serves as a tangible expression of fulfilling this constitutional responsibility.²⁷

In executing penal mediation, Indonesian National Police investigators function not solely as law enforcers but also as social mediators, reconciling the interests of offenders and victims.²⁸ The agreements established in this process embody a tangible kind of protection and care that is attuned to local culture and values. Consequently, while not yet underpinned by comprehensive legislative regulations, the practice of prison mediation genuinely embodies the essence of substantive justice prevalent in society.

Article 7, paragraph (1), letter j of the Criminal Procedure Code grants investigators the authority to undertake "other lawful actions." This clause enables investigators to tailor legal measures to the specific circumstances they encounter in the field. One method of execution is the use of penal mediation, which is not officially governed by law but rather relies on an agreement between the offender and the victim in minor criminal cases.

Article 16, paragraph (1), letter I of Law Number 2 of 2002 regarding the Indonesian National Police similarly establishes a legal foundation for police officers to undertake further essential legal actions, provided they remain within the parameters of legal accountability. Moreover, Article 18, paragraph (1) of the same statute confers on police personnel the option to act in the public good, although it does not explicitly reference penal mediation. This provision enables investigators to utilize prison mediation as a settlement mechanism that promotes justice and social harmony, contingent upon the agreement of the parties involved and the benefit to society.

National Police Chief Regulation Number 8 of 2021 was enacted as a tangible application of this philosophy, offering rules for National Police investigators in the execution of restorative justice in criminal acts. This legislation encompasses several critical points:

- a. The investigation and inquiry procedure serves as the initial phase of the criminal justice system in Indonesia.
- b. The Indonesian judicial system is transforming, influenced by societal factors that prioritize restorative justice, which focuses on restoration rather than punishment.
- c. This alteration is prompted by various challenges in criminal law enforcement, including overcrowding in correctional facilities, an increase in case volume, and the disparity between the number of law enforcement personnel and the cases managed, which consequently influences public perception of the law.

²⁷ Article 30 paragraph (4) of the 1945 Constitution.

²⁸ Ismawansa et al., "Restorative Justice in Indonesian Criminal Law: Integrating Pancasila Values in Police Discretion Practices," *International Journal of Innovative Research and Scientific Studies*, 2025, <https://doi.org/10.53894/ijirss.v8i2.5589>.

- d. The Indonesian National Police, as an investigative and criminal justice entity, recognises the necessity of adapting to this transformation by developing a novel approach to case management, namely investigations grounded in restorative justice, which aims to ensure legal certainty while satisfying a sense of justice.
- e. The concept of restorative justice should not be seen just as a peaceful process or informal way of settling disputes, but to handle criminal cases that includes offenders, victims, the community, and law enforcement as facilitators.
- f. Cases resolved by amicable settlement and the relinquishment of the victim's right to sue require judicial approval through the public prosecutor to forfeit the capacity to prosecute legally.
- g. Diverse approaches to settling criminal cases that embody restorative justice principles might serve as a benchmark for equitable case management.
- h. The National Police's exercise of investigative and criminal investigation authorities, incorporating restorative justice principles, shall adhere to relevant legal regulations and guarantee accountability for all actions taken.

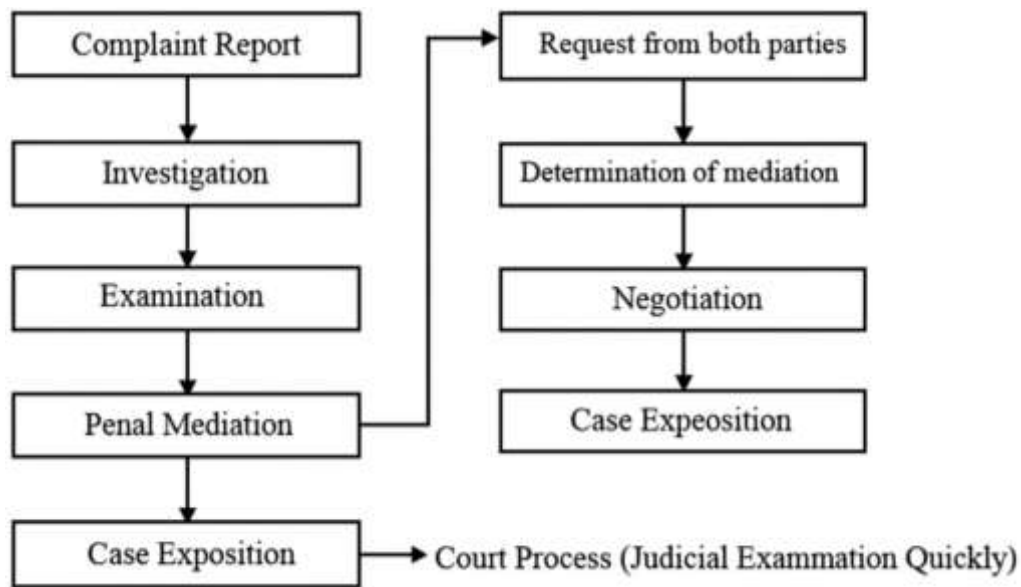
Grounded in these normative principles, penal mediation possesses a robust practical and philosophical grounding as a legal innovation for addressing minor criminal matters. While not yet comprehensively governed by explicit laws, its implementation has acquired significant practical legitimacy through judicious legal discretion aimed at promoting social fairness.

Penal mediation has commenced to obtain normative acknowledgement, albeit incompletely, through stipulations in the 2012 Draft Criminal Procedure Code. This is articulated in Article 145, particularly subsections d and j, which refer to "settlement outside the process" and govern the implementation of the opportunistic approach by the Attorney General. These laws suggest that penal mediation may serve as a mechanism for resolving criminal matters extrajudicially, subject to legal and equitable principles. Additionally, Article 42 of the Draft Criminal Procedure Code contains clearer regulations for criminal mediation. Paragraph (2) of the article elucidates that the public prosecutor possesses the discretion to terminate prosecution in the public interest, with or without stipulations, contingent upon the fulfillment of specific criteria. The criteria for executing the cessation of prosecution as outlined in Article 42, paragraph (3) of the Draft Criminal Procedure Code, are:

- a. The offense perpetrated was trivial;
- b. The offense is subject to a maximum penalty of four years' imprisonment;
- c. The offense is subject solely to a monetary penalty;
- d. The offender was over 70 years of age at the time of the offense;
- e. The incurred losses have been reimbursed.

This section enacts the opportunity principle, which grants prosecutors the discretion to refrain from prosecuting specific cases based on public interest considerations, as stipulated in Article 145, letters d and j, of the 2012 Criminal Code Bill. Despite the absence of formal legislative implementation, law enforcement officials, particularly within the police sector, utilize this legislation as a conceptual framework for achieving legal advancements, including the resolution of minor assault cases via criminal mediation. This method seeks to swiftly and effectively resolve problems while ensuring balanced and equal justice and restoring social order for the affected parties.

Figure 1. Flowchart of Settlement of Minor Assault Crime Through Penal Mediation



Bripka Putu Hardi Syswanto delineated the phases of penal mediation in the resolution of minor assault cases as follows:

"The first step is for the investigator to inform the perpetrator and victim of the penal mediation schedule after both parties have reached an agreement to resolve the case out of court through the penal mediation mechanism. The investigator then summons the victim and perpetrator, including family members or legal counsel for each party, to attend the negotiation process. These negotiations take place in a special room provided by the police, with the investigator acting as both facilitator and mediator. The investigator's role extends beyond mediating the dialogue between the perpetrator and victim, but also includes overseeing the case resolution process and ensuring that the venue and atmosphere of the mediation are conducive to the creation of a just peace agreement. The mediation process begins with the perpetrator and their family's initiative to visit the victim's home to admit their wrongdoing and offer a personal apology. This action serves as the moral foundation for the mediation process, demonstrating the perpetrator's good faith in taking responsibility for their actions. The mediation meeting then focuses on both parties' efforts to reach a peace agreement through open dialogue and a spirit of mutual understanding."

Alongside the perpetrator, victim, their family members or legal representatives, and the investigator serving as mediator, community members participate in the penal mediation process. This includes the Community Police Officer (Bhabinkamtibmas), the Village Head (Kades), and the Hamlet Head (Kadus) or the Head of the Neighborhood Association (RT/RW) from each party's locality. The involvement of these community leaders aims to offer moral support and reinforce commitment to the peace established during the mediation process. Following communication and talks that yield a mutual accord between the perpetrator and victim, the subsequent stage is to compose a Peace Agreement Letter. This document delineates the parameters of the peace accord established by the parties. All parties engaged in the mediation process have signed the agreement, except the investigator and the Community Police Officer (Bhabinkamtibmas), who maintain neutrality and are not signatories to the agreement.

The investigator requires the perpetrator to submit a written declaration affirming their intention to refrain from future misconduct and indicating their readiness to offer restitution to the victim as a means of accountability for their actions. No legislative regulations dictate the compensation amount a perpetrator must pay in circumstances of minor assault. The outcome is contingent upon the accord established between the offender and the victim during mediation. The victim is entitled to seek compensation, such as for medical bills, in a fair sum corresponding to the real losses incurred. Conversely, the offender has the power to initiate or suggest restitution contingent upon their capacity and bona fides. This illustrates that in the allocation and acceptance of compensation, investigators facilitate an environment in which parties can agree on the specifics of executing reparation without coercion or interference from authorities. Consequently, the notion of restorative justice is effectively realized through voluntary and participative agreements that address the actual conditions and requirements of both conflicting parties.

Nonetheless, the execution of prison mediation does not consistently proceed as anticipated. Challenges consistently emerge in the field. Bripka Hardi Syswanto elucidated that a primary impediment in the prison mediation process arises when the victim presents disproportionately elevated reparation requests, especially concerning medical expenses, which encumbers the offender and complicates their ability to fulfill these requirements. Conversely, there are instances where the perpetrator neglects to honor their mutually established obligations, inadequately executing the peace agreement. Both scenarios frequently render the mediation agreement ineffectual, as one side is either unable or unwilling to comply with its stipulations. Consequently, the principal objective of prison mediation namely, a peaceful, equitable, and consensual resolution is rarely entirely realized and may even generate more conflicts between the parties.

Upon the establishment of a peace agreement between the perpetrator and the victim through penal mediation, the victim is entitled to retract the previously submitted report. This withdrawal provides the foundation for the investigator to conclude the inquiry into the case. The process of retracting a report is officially executed by the reporter, who presents a written request to the investigator, detailing the rationale for withdrawing the report against the accused. The prerequisites for reporting to the police encompass several stipulations, specifically:

- a. The report has not exceeded the three-month deadline since its initial submission to the police;
- b. The case has not been deemed complete (not yet P-21);
- c. The reporter has submitted a formal request to retract the story, directed to the investigator.

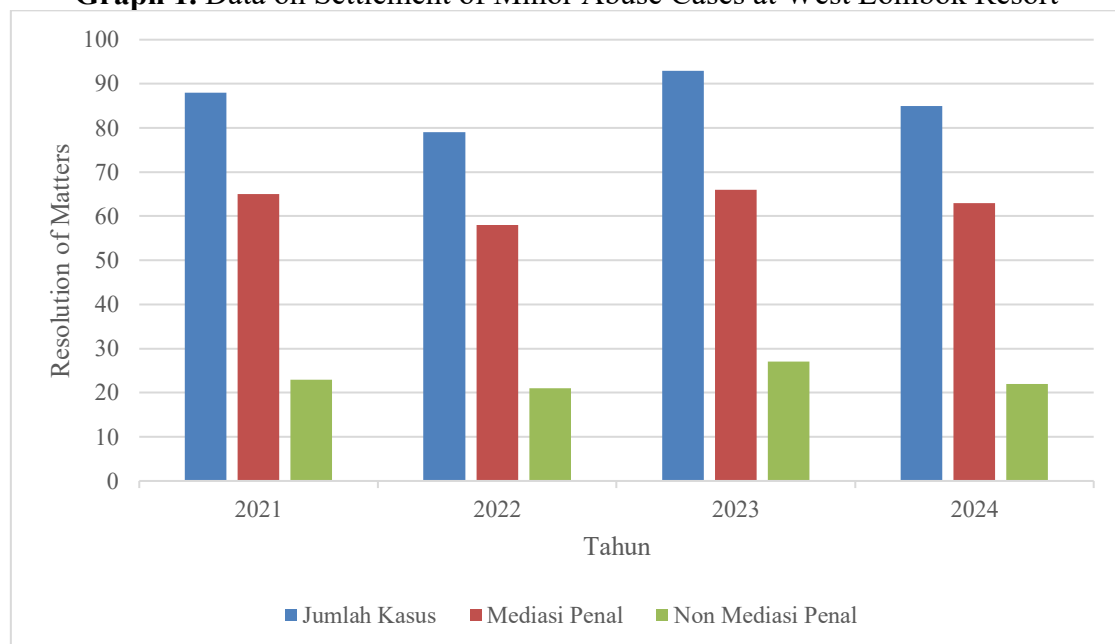
Moreover, according to Article 109, paragraph (2) of the Criminal Procedure Code (Law No. 8 of 1981), investigators possess the ability to terminate an inquiry for three specific reasons:

- a. Lack of evidence;
- b. The reported occurrence did not constitute a crime;
- c. The inquiry was terminated by legal mandate.

Assume the termination is predicated on the retraction of a report. In this instance, the investigator's discretionary authority defined as the capacity to act based on professional judgment for the advancement of the law must also be taken into account.

Upon receipt of the withdrawal letter, the investigator will do a case assessment to ascertain the validity of the punitive mediation outcomes and their potential to justify the termination of the investigation. If the mediation outcomes are deemed illegitimate, the case will proceed to the next level, and the mediation findings will serve solely as mitigating factors for the perpetrator in court. If deemed valid, the inquiry may be officially concluded, and the case will not advance to prosecution. It is important to emphasize that the resolution of small assault cases via penal mediation can occur solely once at the police level. If the offender commits a comparable violation in the future, they will be subjected to the relevant criminal procedural law up to the judicial level. The investigator must present evidence in the form of a signed statement from the culprit, indicating that the matter has been handled through penal mediation. This document may serve as a reference for the judge when rendering a verdict against a repeat offender of the same crime.

Graph 1. Data on Settlement of Minor Abuse Cases at West Lombok Resort



Data Source: Urmintu Criminal Investigation Unit, West Lombok Police.

Data from 2021 to 2024 about the resolution of minor assault cases using criminal mediation indicates that mediation continues to be the predominant method of dispute resolution between offenders and victims. Out of the 345 incidents documented over four years, 252 were amicably handled outside the judicial system, indicating significant public confidence in a restorative strategy that is more compassionate, efficient, and focused on reinstating social relationships.

Despite annual fluctuations in case numbers, the trend in punitive mediation utilization remains continuous and stable. In 2023, the highest number of instances was recorded, at 93, followed by 2021 and 2024. Nonetheless, unresolved cases through criminal

mediation (non-penal mediation) persisted, albeit in reduced numbers, totaling 93 instances overall. This suggests that not all disagreements can be resolved through dialogue, either due to unresolved grievances or unequal power dynamics between the parties involved. This evidence reinforces the role of penal mediation as a viable alternative for resolving small criminal cases, aligning with contemporary societal justice requirements. Briпка Putu Hardi Syswanto asserts that the resolution of minor assault cases by penal mediation is grounded on the Principle of Legality, as articulated in Article 1, paragraph (1), of the Criminal Code.

Alongside small assaults, various additional minor offenses can, in principle, be addressed through penal mediation processes. Such crimes are typically uncomplicated, have minimal consequences, and lend themselves to equitable and harmonious resolution within the family. The following table lists some minor offenses that are usually settled outside of court through communication and mutual agreement between the offender and the victim.

Table 1. Minor Crimes That Can Be Resolved Through Penal Mediation

No.	Types of Minor Crimes	Legal Basis	Criminal Threats	Description
1	Minor Assault	Article 352 of the Criminal Code	Maximum 3 months in prison or a fine of IDR 4,500	Many have been resolved through alternative dispute resolution, such as mediation
2	Minor Theft (low value)	Article 364 of the Criminal Code	Maximum one-third of Article 362 of the Criminal Code (5 years)	If committed by a close family member, or the value of the goods is minimal
3	Minor Fraud	Article 379 of the Criminal Code	Maximum 3 months in prison or a fine of IDR 900	If the victim's loss is minimal, or the perpetrator regrets and returns the goods
4	Minor Insult	Article 315 of the Criminal Code	Maximum 4 months and 2 weeks or a fine	Suitable for resolution based on apology and reconciliation
5	Minor Vandalism	Article 406, paragraph (2) of the Criminal Code	Maximum 3 months in prison or a fine	If the damage is not significant and the perpetrator is willing to compensate
6	Entering Someone's	Article 167 of the	Maximum 9 months in prison or a fine	If committed without malicious intent,

	Yard Without Permission	Criminal Code		it can be resolved amicably. Family matters
7	Minor Embezzlement	Article 372 in conjunction with Article 373 of the Criminal Code	Maximum 3 months in prison or a fine	If the perpetrator initially possessed the goods legally, and the value of the goods is small
8	Minor Defamation (false complaint)	Article 317 of the Criminal Code	Maximum 4 years (can be mediated if within the family)	Considered through a restorative justice approach
9	Minor Receiving	Article 481 of the Criminal Code	Maximum 2 years in prison or a fine	If the perpetrator does not know for sure that the goods originated from a crime
10	Assault in a Defense Case	Article 353 paragraph (2) of the Criminal Code	Lighter than Article 351 (maximum 4 years)	If the defense element is well-founded and the victim does not make a strong demand

Data Source: Criminal Code

D. Conclusion

Criminal mediation is a method for resolving criminal cases outside the established legal system, prioritizing a restorative justice framework. In cases of minor crimes, particularly minor assaults, handled by West Lombok Police investigators from 2021 to 2024, the resolution of minor violence cases using criminal mediation shows that mediation remains the dominant method of dispute resolution between perpetrators and victims. Of the 345 documented incidents over four years, 252 were resolved peacefully outside the judicial system, demonstrating significant public trust in restorative strategies that are more compassionate, efficient, and focused on restoring social relationships.

Therefore, criminal mediation has proven effective as a rapid alternative resolution aimed at rebuilding social relationships between perpetrators and victims. This approach emphasizes mutual agreements reached through communication, admissions of guilt, and the perpetrator's extraordinary commitment to ethical and material accountability.

Acknowledgments

We extend our gratitude to the West Lombok Police for permitting us to undertake this research. We want to express our appreciation to the State University of Malang for providing the necessary facilities that enabled us to complete this research.

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